REMARKS

The undersigned wishes to thank Examiner Price for the courtesy and helpful comments extended during their recent discussion of the application. It was discussed at that time that the final rejection set forth in the present Office Action is premature and is properly withdrawn.

Claim 6 has been amended, and claims 36 and 37 have been added. No new matter has been added by virtue of the amendments. For instance, support for the amendments and new claims appears e.g. at page 7, lines 15-17 of the application.

Confirming request for withdrawal of final rejection

As discussed with the Examiner, the present Office Action is the first Office Action following Applicant's filing of a Request for Continued Examination. The outstanding Office Action includes a new rejection under 35 U.S.C. §103 advanced for the first time in the Office Action. The Office Action also states at page 2 "Applicant has amended the claims to be of a scope not previously considered."

Accordingly, as discussed with the Examiner, a final rejection is not proper in the present Office Action pursuant to Sections 706.07(a) and (b) of the Manual of Patent Examining Procedure. Withdrawal of the final rejection is requested.

Sole outstanding rejection: new rejection under 35 U.S.C. 103

The sole outstanding rejection is of claims 1-6, 16, 17, 21, 22 and 32-35 which were newly rejected under 35 U.S.C. 103 over U.S. Patent 3589846 (Place) in view of EP00385910 and U.S. Patent 5660043 (Pfefferle et al.) and U.S. Patent 5899684 (McCoy et al.).

The following position is taken at pages 5-6 of the Office Action:

> [I]n view of the teachings of US00566043 (Pfefferle et al) that "continued controlled heating may be utilized to provide near instantaneous relight," it would have been obvious to a person in the art to operate US003589846 (Place) in a manner which would permit near instantaneous relight, that is, less than six seconds. Notwithstanding the teaching of place, since the actual warm-up time for a given appliance control application would necessarily depend on numerous design parameters such as the type and amount of fuel burned, the size and type of resistance igniter, the overall size and shape of the burner, etc., to operate US003589846 (Place) such that the desired re-ignition time period is about six seconds or less can be viewed as nothing more than merely a matter of choice in design absent a showing of any new or unexpected results produced therefrom over the prior art of record.

The rejection is traversed.

Pfefferle reports an aircraft gas turbine combustor. Pfefferle does not disclose or otherwise suggest a ceramic igniter or use of such an igniter with an appliance as Applicants claim.

Indeed, contrary to the premise of the instant rejection, the cited element of Pfefferle employed in an aircraft gas turbine combustor is quite distinct from and would not have been used in the clothing-dryer system reported in the Place document. Clearly, the skilled worker would not have looked to an aircraft turbine for design of a clothes dryer system.

Respectfully, for such reasons, the instant rejection appears based on impermissible hindsight reconstruction of Applicants' claimed invention, rather than any type of requisite motivation in the prior art itself to substantiate the combination as is required under 35 U.S.C. 103. See, for instance, MPEP §2143.01.

Additionally, there is no disclosure of record to indicate that a re-ignition time period is about six seconds or less "can be viewed as nothing more than merely a matter of choice in design" as has been proposed in the Office Action.

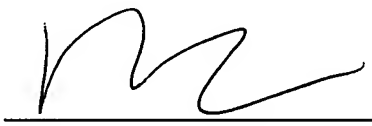
Such an unsupported allegation that claimed subject matters "merely a matter of choice in design" is clearly improper and warrants withdrawal of the instant rejection. See, for instance, Section 2143.03 of the Manual of Patent Examining Procedure, which mandates: "To establish *prima facie* obviousness of a claimed invention, all claim limitations must be taught or suggested by the prior art."

Still further, the report of "near instantaneous relight" in the Pfefferle document is not a disclosure of six seconds or less as Applicants claim. Such a vague report does not indicate any specific time periods and clearly does not indicate six seconds or less. Nor does the Pfefferle document provide any specific disclosure of how such "near instantaneous relight" might be achieved.

In view thereof, reconsideration and withdrawal of the rejection are requested.

It is believed the application is in condition for immediate allowance, which action is earnestly solicited.

Respectfully submitted,



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